

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,

Plaintiff

v.

SHANITA R. LACY,

Defendant.

CRIMINAL ACTION NO.
2:10cr170

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

May 3, 2011

BEFORE: THE HONORABLE HENRY C. MORGAN, JR.
United States District Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Robert J. Krask
Assistant United States Attorney
Counsel for the United States

FEDERAL PUBLIC DEFENDER'S OFFICE

By: Rodolfo Cejas, II
Assistant Federal Public Defender
Counsel for the Defendant

1 (Hearing commenced at 2:36 p.m.)

2 THE CLERK: United States of America versus Shanita
3 R. Lacy, criminal number 2:10cr170.

4 Is the Government ready, Mr. Krask?

5 MR. KRASK: The United States is ready, Your Honor.
6 Good afternoon.

7 THE COURT: Good afternoon.

8 THE CLERK: Defendant ready, Mr. Cejas?

9 MR. CEJAS: Yes, we are. Good afternoon, Your
10 Honor.

11 THE COURT: Good afternoon. All right. I
12 understand that there is some people that couldn't find seats
13 in the courtroom?

14 THE MARSHAL: We are okay, sir.

15 THE COURT: Is everybody in the courtroom now?

16 THE MARSHAL: Yes, sir.

17 THE COURT: Well, I see some people outside.

18 MR. CEJAS: Your Honor, there are some additional
19 individuals but it is not absolutely necessary that they be
20 in here.

21 THE COURT: What is that?

22 MR. CEJAS: There are additional individuals who
23 have attended but it is not necessary for them to be inside,
24 Your Honor.

25 THE COURT: All right.

1 MR. CEJAS: Thank you.

2 THE COURT: All right. Is the Government ready to
3 proceed?

4 MR. KRASK: We are, Your Honor.

5 THE COURT: Okay. You can call the case.

6 THE CLERK: United States of America versus Shanita
7 R. Lacy, criminal number 2:10cr170.

8 MR. KRASK: The United States is ready.

9 MR. CEJAS: The defendant is ready, Your Honor.

10 THE CLERK: Thank you.

11 THE COURT: Okay. Let me see counsel and the
12 marshal at the bench, please.

13 (Side-bar conference.)

14 THE COURT: I understand that you did not want the
15 victims seated in the jury box?

16 THE MARSHAL: The victims, sir, I don't mind that
17 the victims just in case the lady comes --

18 THE COURT: What is that?

19 THE MARSHAL: I can come around. Am I on
20 speakerphone? I wouldn't mind the victims. The problem is
21 the victim, if they are in the jury box, and the defendant
22 comes up to the podium, I just -- and the probation officer
23 is going to be there, as well, at the podium.

24 THE COURT: I think it would be better for the
25 victims to be in the jury box than for the victims to be

1 surrounded by all these people that are here for the
2 defendant.

3 THE MARSHAL: There is only -- that I'm aware of,
4 there is only six people that have arrived for the defendant.
5 There are still people outside. I don't know who else is in
6 the jury box, if they are the defendant's family, but she
7 said she only had a few people here.

8 THE COURT: I've got 50 people here on the list from
9 the defendant.

10 MR. CEJAS: They are not all here, Judge.

11 THE COURT: Who are all these people? Are these all
12 victims or are they people for the defendant? What are they?

13 MR. CEJAS: The majority are for the victim.

14 MR. KRASK: Four victims and the rest are for the
15 family.

16 THE MARSHAL: I didn't know that. They said all the
17 family wasn't here.

18 MR. CEJAS: I'm sorry. There was a
19 miscommunication. My apologies. You want me to, I can take
20 the four victims and put them in the jury box. But there are
21 other people outside but there is a baby involved.

22 THE COURT: I think you ought to do that. I thought
23 they would be by the defendant's people, surrounded. So I
24 think we should sit the victims in the back row of the jury
25 box.

1 THE MARSHAL: Okay. I don't know who they are.

2 THE COURT: We can bring the rest of the people in
3 and fill up their space.

4 THE MARSHAL: I don't know who the other victims
5 are, Your Honor.

6 (End of side-bar conference.)

7 THE COURT: All right. Mr. Cejas, in reviewing the
8 submissions in behalf of the defendant, it does not appear
9 that the defendant challenges the factual content of the
10 presentence investigation report as such. She's simply
11 asking for a variant sentence from the guidelines?

12 MR. CEJAS: That is correct, Your Honor.

13 THE COURT: All right. So she accepts that the
14 guidelines were accurately computed?

15 MR. CEJAS: Yes, sir.

16 THE COURT: All right. You want to ask your client
17 to come forward to the podium and be sworn.

18 MR. CEJAS: Your Honor, at this time I would like
19 the Court to affix the list, the notebook of exhibits that we
20 submitted, to the presentence report.

21 THE COURT: You ask the Court to do what?

22 MR. CEJAS: To affix the defense exhibits. I
23 believe we submitted them in a notebook. They could just be
24 included as part of the presentence report.

25 THE COURT: Well, they are not part of the

1 presentence report but they are defendant's exhibits.

2 MR. CEJAS: Oh, yes, sir, as an exhibit.

3 THE COURT: I have what you submitted.

4 MR. CEJAS: Thank you, Your Honor.

5 THE COURT: All right.

6 (Defendant was sworn.)

7 BY THE COURT:

8 Q. All right, Ms. Lacy. Have you had an opportunity to
9 review the presentence report in your case?

10 A. Yes, sir.

11 Q. And have you had an opportunity to discuss that report
12 with your attorney, Mr. Cejas?

13 A. Yes, sir.

14 Q. And have you also discussed with him how the offense
15 conduct matches up with the guidelines which have been
16 recommended in your case?

17 A. Yes, sir.

18 Q. And based on that conversation, does it appear to you
19 that the guidelines were properly computed?

20 A. Yes, sir.

21 Q. And do you understand that the offense conduct to which
22 you have pleaded guilty resulted in -- well, the total amount
23 of the losses was in excess of \$800,000? Do you understand
24 that?

25 A. I do, sir.

1 Q. And do you understand that you're responsible for
2 repaying that to the victims of --

3 A. Yes, sir.

4 Q. -- the offense that you committed?

5 A. I do.

6 THE COURT: All right. Mr. Cejas, when you reviewed
7 the presentence report and discussed it with your client, was
8 the content of the presentence report, as it related to the
9 offense conduct, consistent with your investigation,
10 discovery and conferences with your client?

11 MR. CEJAS: Yes, sir, both mine and Ms. Allen who
12 had originally handled this case.

13 THE COURT: All right. And does it also appear,
14 from your conferences with your client, that her background
15 is correctly described in the presentence report?

16 MR. CEJAS: Yes, sir, it is.

17 THE COURT: All right. And is the information about
18 both your offense conduct and your background properly
19 described in the presentence report, Ms. Lacy?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. That being the case, the
22 Court's going to accept the factual content of the
23 presentence report as it relates to the conduct leading to
24 the felony charges against the defendant, and it's also going
25 to accept the information in the presentence report as it

1 relates to the defendant's background, and it will accept the
2 application of the guidelines to those facts.

3 Now, do you understand that the guidelines are not
4 binding on the Court, Ms. Lacy, and that the Court may impose
5 a sentence which is either greater or lesser than the
6 guidelines?

7 THE DEFENDANT: I do, sir.

8 THE COURT: Do you understand that the Court will
9 apply the statutory sentencing factors in determining your
10 sentence?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand that both the
13 defendant and the Government have the right to present
14 evidence relevant to sentencing at the hearing?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Then the Court's going to
17 accept the application of the offense conduct and the
18 background information regarding the defendant and its
19 application to the guidelines as well as the guidelines as
20 computed in the presentence investigation report.

21 The Government and the defendant will have an
22 opportunity to present evidence relevant to sentencing, as
23 well as argument, and when the Court has determined all of
24 the factual information necessary, it will determine a
25 sentence in accordance with the guidelines and the statutory

1 sentencing factors.

2 All right. You may have a seat with your client.

3 MR. CEJAS: Thank you.

4 THE DEFENDANT: Thank you.

5 THE COURT: All right, Mr. Krask. Does the
6 Government have any evidence it wishes to present?

7 MR. KRASK: No evidence, Your Honor.

8 THE COURT: There is nothing from the victims?

9 MR. KRASK: No, Your Honor.

10 THE COURT: All right. Mr. Cejas.

11 MR. CEJAS: I have no additional evidence, Your
12 Honor, other than what has been submitted in the packet that
13 we submitted to the Court.

14 THE COURT: All right. Well, the Court has reviewed
15 the information that was submitted in the notebook prepared
16 in behalf of the defense as well as the information contained
17 in the presentence investigation report. So if there's no
18 further evidence, the Court will hear argument from the
19 Government relative to sentencing.

20 MR. KRASK: Your Honor, first, I would note that the
21 parties have submitted a proposed restitution judgment order
22 to the Court which is initialed and endorsed by the defendant
23 and counsel. And also we have submitted a proposed consent
24 order of forfeiture which we would ask the Court to enter at
25 the appropriate time.

1 With respect to the defendant's request for --

2 THE COURT: Well, just a second. I have the
3 restitution order but I don't have -- I mean, the consent
4 order of forfeiture but I don't have a restitution order.

5 THE CLERK: It is right up here, Judge.

6 THE COURT: Did you put it on the bench?

7 THE CLERK: Yes, sir.

8 THE COURT: Okay. That was not in the file that I
9 had before the hearing but it is here now.

10 All right.

11 MR. KRASK: Thank you, Your Honor. With respect to
12 the defendant's request for a downward variance, the United
13 States has filed a position paper opposing that. I won't
14 belabor the grounds that we have offered in opposition to
15 that, but we do request that the Court deny any request for a
16 downward variance in this case.

17 I would like to now then discuss the Section 3553(a)
18 factors as they pertain to the advisory guideline range of 41
19 to 51 months and the proposed sentence that the United States
20 seeks.

21 With respect to the defendant's history and
22 characteristics, she is a 34-year-old woman with some college
23 education, and she is a mother of three teenagers, and she's
24 someone who the PSR indicates is hard working. To her
25 credit, she falls into criminal history category one, but she

1 has been convicted of several driving offenses pertaining to
2 driving without a license, driving on a suspended license,
3 and the like.

4 Concerning the nature and circumstances of the
5 offense, the defendant comes before the Court today convicted
6 of a very serious offense. Mortgage fraud, in and of itself,
7 is very serious, but the defendant was involved in a subset
8 of mortgage fraud known as foreclosure rescue, which is even
9 more serious than the typical mortgage fraud case, and which
10 in the context of the facts of this case, is especially
11 disturbing because it created three sets of victims.

12 The first set of victims is these homeowners who
13 were targeted by the defendant, most of whom were in some
14 financial distress at the time they were targeted, and who
15 were vulnerable. The defendant sweet-talked them and
16 promised to help them resolve their financial problems, and
17 these people believed her.

18 And then the defendant did two things that were
19 simply unconscionable. First, she robbed them of the equity
20 they had in their homes, and that equity totaled, Your Honor,
21 approximately \$633,000. Well, these people were in financial
22 distress, but they had equity in their homes, and they had a
23 financial asset upon which they could have relied before they
24 met Ms. Lacy.

25 The second thing she did was that she caused them to

1 lose their homes to foreclosure. She promised to help them,
2 but, in fact, she set out to hurt them. And they will have
3 to live with the consequences of the defendant's actions for
4 a long time to come, probably longer than any jail sentence
5 that the defendant will have to serve in this case.

6 Present today, Your Honor, we have Elaine Hill, one
7 of the victims in this case, and Delisa Mackey, one of the
8 homeowner victims in this case. I'll talk about the other
9 two victims who are here also. And the other two victims
10 fall into the second set of victims who were targeted by the
11 defendant. These were people who agreed to buy the homes
12 from people such as Ms. Mackey and Ms. Hill. And we refer to
13 them as investors, but I use that term loosely because these
14 weren't wealthy, sophisticated people who were sophisticated
15 about financial investments that Ms. Lacy was seeking to get
16 from them.

17 Instead, they were hard working people who had good
18 credit, who were specifically targeted by Ms. Lacy to fuel
19 her scheme. She couldn't get her access to that equity in
20 these people's houses without finding people to say, yes,
21 I'll buy that person's house for a temporary period for
22 roughly one year.

23 And they were fooled by Ms. Lacy into allowing her
24 to use their good credit as part of this mortgage fraud
25 scheme. And interestingly enough, the way they were fooled

1 and initially approached was through a proxy of Ms. Lacy, her
2 mother. They knew her mother from church. And they, like
3 many people in the mid- to late 2005, 2006, 2007 time frame,
4 enhanced their financial picture by investing in real estate,
5 and they were solicited to do that, and they agreed to do
6 that, and they, too, have been seriously harmed by Ms. Lacy's
7 actions. And today we have Sandra Pitts here and Lisa Wilson
8 here also. They were two of the investors at issue.

9 Of course, the last set of victims was the mortgage
10 companies that made \$1.5 million worth of fraudulent mortgage
11 loans in the eight transactions before the Court today on
12 which the mortgage companies and the so-called investors have
13 lost over \$880,000.

14 Now, the one aspect of the defendant's request for a
15 downward variance that I do want to address is this
16 suggestion that, well, this all happened in a very brief
17 period of time, and, gee, Ms. Lacy, you know, she started out
18 with the best of intentions, she really wanted to help these
19 people, and things just went seriously awry as a result of
20 the crash of the real estate market.

21 We would submit to the Court that that did not
22 happen, and we would ask the Court to reject any such
23 argument for three reasons. The first is that prior to her
24 involvement in this scheme, the defendant worked in the
25 mortgage business for several years. She wasn't someone new

1 to the mortgage field, who didn't really understand what she
2 was getting into.

3 From 2004 to 2007, when she got started with Clean
4 Slate Financial, she had worked in the mortgage field. So
5 she knew how the system worked. She knew what was to be done
6 to properly get mortgage loans to facilitate real estate
7 transactions.

8 Second, each of the eight mortgage loan applications
9 that the defendant and her proxies submitted was permeated
10 with fraud, whether it related to the asset information that
11 was reported for the buyer, the income information, the
12 information about whether the buyer intended to occupy the
13 home as a primary residence, or was purchasing it as an
14 investment property, and also at the closing table, the
15 information about who was bringing the funds to the closing
16 table.

17 The mortgage company would want and expect that the
18 buyer would be bringing certain monies to the closing table,
19 and typically in these transactions we are talking about 20
20 to \$40,000, so that they have a stake in the mortgage loan
21 transaction.

22 In fact, Ms. Lacy was taking steps to disguise the
23 fact that the buyers weren't bringing money to the closing
24 table, that she was supplying it as part of this scheme.

25 And the third reason we would ask the Court to

1 reject the argument that this was simply a mistake or a
2 business venture gone bad was the defendant's dealing with
3 the victims. I think there is a real dichotomy that comes
4 through in the presentence report and in the FBI agent's
5 interviews with all of these victims, and it's really the
6 before and the after approach that Ms. Lacy took to these
7 individuals.

8 Beforehand when she was trying to tap into their
9 equity, she was available to them. She, you know,
10 sweet-talked them. She indicated she would be there every
11 step of the way. She would help them pay off their debts.
12 She would help them repair their credit history, and, you
13 know, magically, at the end of the year, they could buy back
14 their house, and they would be in a much better and more
15 sound financial position. And the same thing is true with
16 the buyers.

17 Beforehand, you know, she needed their good credit.
18 She was available to talk to them. She would take their
19 information, income information, employment information,
20 credit history information so that she could complete loan
21 applications for them.

22 She promised them that she would supply them with 12
23 months of mortgage payments so during this year that they
24 were doing this good thing to help out someone else, that
25 they wouldn't be financially accountable for these loans that

1 they were signing for.

2 And then after the transactions closed and after she
3 got the proceeds of that homeowner's equity out of each one
4 of these transactions, that \$633,000, Ms. Lacy was nowhere to
5 be found, literally and figuratively. They called and asked
6 to speak to her. What are you going to do to follow through
7 on those promises? She wasn't available. Did she make a
8 couple payments here and there? Yes, she did. Maybe a
9 couple car payments in one instance, but by and large, she
10 wasn't around. She didn't take their calls. She didn't
11 provide the monies that she indicated would be used to pay
12 off debts, didn't provide the money that would be used to
13 pay -- make mortgage payments. She was gone. And she was
14 gone because of one simple reason; she had gotten what she
15 wanted out of the transaction and she no longer had any use
16 for these people who she defrauded.

17 These aren't the actions of someone who engaging in
18 good faith, who got caught in the crash of the real estate
19 market. These are the actions of someone who was infected by
20 greed and a lack of concern for others.

21 The Court has received victim impact statements from
22 many of the victims, including some of the women who are here
23 to my right. And the Court can understand the harm and the
24 consequences that Ms. Lacy has visited upon these people as a
25 result of this fraud.

1 So accordingly, the United States submits that this
2 is a case that requires a substantial sentence to punish the
3 defendant and promote in her a greater respect for the law,
4 to deter the defendant and others who in today's continually
5 struggling real estate market might be tempted to engage in
6 the same type of misconduct. And for all of those reasons,
7 we seek a sentence on the high end of the advisory guideline
8 range of 41 to 51 months.

9 And lastly, I would note that with respect to any
10 term of supervised release, we would ask the Court to make it
11 a condition: One, that she not engage in the mortgage
12 business and mortgage field, obviously; but two, because the
13 defendant holds insurance licenses with the Commonwealth of
14 Virginia and the State of North Carolina, that it also be a
15 condition of supervised release that she not engage in the
16 practice of or in the insurance field during any term of
17 supervised release because that would give her access to the
18 same type of personal information and financial resources of
19 others that she's shown that she cannot be trusted with.

20 Thank you.

21 THE COURT: All right, Mr. Cejas.

22 MR. CEJAS: Yes, sir. Thank you, Your Honor. Your
23 Honor, let me say, as the Court is well aware, we submitted a
24 lengthy position with respect to the sentencing factors, and
25 in light of that, I will do my best to make my comments

1 brief.

2 Let me just say at the outset, Your Honor, that I
3 take this matter very seriously, and I don't in my comments
4 want to suggest in any way that either myself, and certainly
5 not Ms. Lacy, that we do not understand, that she does not
6 understand that this is a very serious matter for which she
7 pled guilty. I believe that she recognizes without any
8 question not only the nature of the offense but also the harm
9 that it has done to the victims involved. I say that based
10 on my discussions with her, her discussions with Ms. Allen,
11 as well as what I know that she will say to the Court.

12 THE COURT: Are the defendant's daughters present in
13 the courtroom?

14 MR. CEJAS: I don't believe so. They are. I'm
15 sorry, two of them are, yes, sir.

16 THE COURT: All right.

17 MR. CEJAS: Your Honor, that said, taking all of the
18 factors into consideration, I believe, though, that even
19 despite the comments that Mr. Krask has made, that all of the
20 factors here point to a sentence below the recommended
21 guideline range. Without going into too much detail again,
22 as you know, we outlined it in our position paper, the fact
23 that the activity was very brief, or relatively brief,
24 rather. I believe it lasted no longer than eight months, the
25 fact that there was no obstruction of justice, no other

1 criminal conduct whatsoever while she has been on pretrial
2 supervision. There hasn't even been a hint of a problem.

3 There is nothing to suggest that there is any
4 recidivism or any problems of that or that there will be any
5 problems in the future. There are no substance abuse issues,
6 no hint of substance abuse issues ever. I would note that
7 she is an educated woman. As she stands before you she is a
8 hard worker, even as Mr. Krask noted that. She has published
9 two articles, and she has been active in her community --

10 THE COURT: One of the really unfortunate situations
11 here, Mr. Cejas, is that the defendant is obviously very
12 intelligent. She's educated, she has experience, and she
13 could have earned an honest living to support her family.

14 MR. CEJAS: Yes, sir.

15 THE COURT: And she elected to be dishonest to the
16 detriment of all these people whose homes were lost. And her
17 daughters ought to be sitting with the other victims because
18 they are victims of her greed. That is what this whole case
19 is about, is about greed.

20 MR. CEJAS: I don't dispute that, Your Honor.

21 THE COURT: She could have and had earned a very
22 good living, and, in fact, apparently has earned a very good
23 living right now, and there was no need for this. She
24 brought this terribly expensive home that was entirely out of
25 any reasonable range for what she was able to earn honestly

1 and put herself into a position where the only way she could
2 deal with it was to resort to defrauding people who were
3 already in distress and taking advantage of their distress to
4 satisfy her own greed. That is what it's about.

5 MR. CEJAS: Yes, sir. Your Honor, I don't dispute
6 that. And I understand the Court's sentiments as well as the
7 impact of this -- of this type of activity. That said, I
8 still believe, Your Honor, as we cited in our position paper,
9 that it does warrant a sentence outside of the -- or below,
10 rather, the advisory guideline range. I think the fact that
11 she will be adjudged a felon from this point on, and what
12 comes with that -- I know that that doesn't mean a lot to
13 many individuals, but it does mean a lot to her.

14 The fact that she will be losing the ability to
15 work --

16 THE COURT: Eight months is a long time to be
17 perpetrating this very complex fraudulent scheme. This is
18 not something that happened on impulse overnight.

19 MR. CEJAS: I understand.

20 THE COURT: Eight months is not a short time. It is
21 a long time. During that entire eight months she was
22 defrauding people on both sides of the scheme.

23 MR. CEJAS: Yes, sir.

24 THE COURT: The people who were in distress with
25 their mortgages and the people that she induced to invest

1 money in the scheme that was accomplishing nothing but
2 putting extra money in her own pocket. And to do that for a
3 period of eight months is an extremely long time, not a short
4 time.

5 MR. CEJAS: And I understand, Your Honor. Again,
6 let me state, Your Honor, again, I don't believe that this
7 warrants a sentence that is suggested in the advisory
8 guideline range, and that is in spite of the fact that it is
9 very serious, to submit numerous cases, Your Honor, that
10 would support that, the case cited, the *Gaind* case from the
11 Southern District of New York, was cited at a downward
12 departure where part of the punishment was the loss of the
13 individuals' business and their ability to work. The case
14 *Vigil*, which was from New Mexico, the case of *Darway*,
15 *Urbina* --

16 THE COURT: What about these people that lost their
17 homes, Mr. Cejas?

18 MR. CEJAS: Your Honor, I don't --

19 THE COURT: There is a letter from one of her
20 daughters in what was submitted to me in support of her case
21 saying don't take my mother away from me. Now, what in the
22 world is that about? In other words, if the judge does his
23 or her duty in this case to impose a sentence commensurate
24 with the crime involved, the judge is the one who's taking
25 her children away from her. She took her children away from

1 her. She abandoned her children when she went into this
2 scheme, Mr. Cejas. And to submit a letter to the Court
3 stating don't take my child away from me --

4 MR. CEJAS: Your Honor, I believe that that letter,
5 along with any of the other letters of a similar nature --

6 THE COURT: Yeah, there is another letter of a
7 similar nature from somebody involved in alternative
8 punishment.

9 MR. CEJAS: I understand. That said, Your Honor, I
10 don't have anything further to add.

11 THE COURT: All right. You want to come forward to
12 the podium with your client.

13 All right, Ms. Lacy. You have an opportunity to
14 make an unsworn statement to the Court before the Court
15 pronounces your sentence. You're not required to say
16 anything to the Court if you elect not to do so. You may
17 consult with Mr. Cejas and seek his advice on whether it
18 would be advisable for you to make a statement, but the
19 decision must be made by you. If you wish to make a
20 statement to the Court, this would be the time to do so.

21 THE DEFENDANT: I do.

22 THE COURT: All right.

23 THE DEFENDANT: This allocution is presented in
24 respect of the Honorable Judge Henry Coke Morgan, Jr., and
25 all of the federal government representatives associated in

1 this matter. My apology and expression of repentance is long
2 overdue.

3 Today, I offer no excuses for my actions. I
4 apologize for it and request forgiveness of the matter
5 involving Shanita Renee Lacy and Clean Slate Financial
6 Services, LLC.

7 I am grateful for the opportunity to face the
8 victims, to make known my true and honest feelings of
9 unhappiness for my actions. I know what I did was wrong. I
10 know that I have messed up the life of so many others, and
11 this is not about me but about justice and financial
12 completeness for the victims.

13 I have created several layers of victims and I
14 address all impacted victims specifically. The financial
15 institutions: Bank of America, One West, GMAC Risk Cap and
16 City Mortgage. I apologize to the institutions for the
17 disrespectful conduct and to each employee of those
18 institutions that may have suffered any loss of income or
19 benefit due to this situation.

20 The homeowners: Ms. Barbara Ball, Ms. Carolyn Ball,
21 Ms. Christine Collins, Mr. John Coursey, Ms. Elaine Hill,
22 Ms. Delisa Mackey, Mr. Terry Purcell and Ms. April Wiggins.
23 You deserved assistance from an organization that was capable
24 to resolve your financial situations legally. I will never
25 understand the effects that this incident has passed to your

1 lifestyle. But if I could take your place right now, I
2 would. I will never be able to fully compensate you for the
3 loss that you've suffered and the pain that you've endured.
4 But right now your benefit is my priority. You deserve to be
5 made whole financially as soon as possible.

6 To the investors or the straw buyers: Ms. Sandra
7 Pitts and Ms. Lisa Wilson. I apologize for interrupting your
8 financially stable lifestyles with the possibility of
9 potential ruin.

10 The United States of America and my community, I
11 have denied important values and violated my moral obligation
12 as a United States citizen and as a member of the Hampton
13 Roads community. As well, I apologize to anyone else
14 directly or indirectly affected by my foolish actions.

15 In regards to the one count of conspiracy to commit
16 mail and wire fraud, I will be eternally indebted to the
17 United States of America, the victims, and to my family.
18 While it is true, I have prepared this statement in part
19 because of the confinement exposure in connection to the
20 criminal felony charge, it is also true that I am sorry. The
21 things that people say come from inside of them. But after
22 all that I have done, I can only imagine how empty my words
23 will seem.

24 However, I attempt to share with you the true
25 despair that rides within my heart. I will expose the

1 feelings of my heart. In the moments when I spend time
2 alone, and my mind wanders, I've realized just how bad I have
3 messed up. I realize just how bad I've hurt the victims and
4 all of their family. My heart feels sorrow and it hurts me
5 that I have hurt people in this way.

6 Even as time passes, it still feels like just
7 yesterday, knowing what I have done, swings a very heavy
8 burden. I'm convinced that this will haunt me for the rest
9 of my life. I am embarrassed by my actions of offering false
10 promise to foreclosure rescue and financial well-being. I
11 was totally out of control and disobedient to everything that
12 I was taught as a child. This was never personal. It was
13 self-inflicted. And even I'm devastated by my actions. I
14 publicly express to you just how remorseful I feel. I'm
15 sorry.

16 I am sensitive to each and every victim's pain and
17 suffering and do not view this crime as harmless, minor or
18 emotionless. Actually, I hate that I have done this to you.
19 I have made a mess of the life of so many people.

20 I have a moral obligation and a financial obligation
21 to every victim and I will achieve wholeness for each one of
22 them. Therefore, I admit guilt to the charge and accept full
23 responsibility for the catastrophic experience. Apologies
24 never have the power to erase the effects of such devastation
25 but I want the Court to know my heart is concerned for the

1 victim's well-being.

2 I do know that my formal public apology and even
3 punishment will by no means provide sufficient reimbursement
4 for the chaos resulting from my actions. I was selfish and
5 out of control, but I will strive to make each victim whole
6 through restitution. Certainly, my criminal actions is not
7 worthy of leniency.

8 As I posture myself to request mercy and leniency
9 from the Court regarding confinement, I do so with respectful
10 words, a repentant heart, purified motives and a
11 rehabilitative mind. I stand before you today not to make
12 excuses but to make reimbursement my priority. My motives
13 have been purified. My heart is filled with goals to repair
14 this situation for everybody. I will reimburse the victims
15 for their financial loss and satisfy my moral obligation for
16 their justice.

17 My priority over my own desires is to take every
18 possible step to correct this. I'm convinced that the
19 physical and emotional pain associated with this has changed
20 their lives and will change their life forever. But we are
21 each responsible for our own conduct. Therefore, I offer no
22 excuses for my actions, and I publicly request forgiveness
23 and mercy. I understand the options for discipline that are
24 associated with this charge, the fines, the restitution, the
25 confinement and even the supervised release.

1 I am fully aware of the sentence range and the
2 federal sentencing guidelines' recommendation of 41 to 51
3 months of confinement. This will haunt me for an eternity
4 with or without incarceration. No discipline is enjoyable
5 while it's happening. It's painful. But afterward there
6 will be a peaceful heart of right living if you are trained
7 in this way.

8 This situation has given me cause for deep
9 self-examination and life reflection. I have learned
10 countless valuable life changing lessons, and I know that I
11 have a lot of work to do in society, foremost to refund the
12 victims, deserve restitution. I will help women both inside
13 and outside of the prison walls. I will also mentor youth to
14 prevent as many of them that I can from standing where I find
15 myself today.

16 I will not get tired of doing what is good and will
17 dedicate my life to sharing positive, valuable information
18 with citizens' backing resources. I will live a
19 rehabilitative lifestyle. I will demonstrate a
20 rehabilitative lifestyle, and I will do that regardless of
21 any confinement issue during this sentencing today.

22 Through research I do understand what the federal
23 prison has to offer, the program that they have established
24 for a corrective lifestyle such as educational and vocational
25 training, health and fitness programs and religious groups.

1 Your Honor, if my actions result in physical incarceration, I
2 will become involved in everything that I need to live a
3 fully corrected lifestyle.

4 Immediately upon release, I know that it will be --
5 I know that I would have to seek counseling for myself and
6 for my children and for a successful functioning in society.
7 Through the strong pastor of my church and accountability
8 partners, several who are present with me here today, I have
9 a life plan to live as a responsible citizen of the United
10 States of America. I will be a lifetime learner and an
11 advocate for criminals and for youth. My life will eternally
12 yield only positive output and respect to my community, my
13 family, the United States of America and myself.

14 This statement of apology and repentance is
15 presented in part to my level of punishment, but first it's
16 my moral obligation to each victim that I have created. They
17 need to be healed and they need to recover from this. For
18 now the most important effort for me is to begin correction
19 through restitution to the victims.

20 I have been humbled. My motives have been purified.
21 I have a repentant heart. My mind is rehabilitated and
22 focused on correcting this situation for each and every
23 victim. I have apologized to my family. I have apologized
24 and asked forgiveness of God, my parents, my parents-in-laws,
25 my siblings, my siblings-in-laws, my children and my husband,

1 as well to my accountability partners, those that have been
2 here to support me.

3 I furthermore apologize to you, Judge Morgan, for
4 the need to stand here in your courtroom and to bring this
5 matter before you for sentencing. I tell myself we are each
6 responsible for our own conduct. I offer no excuses for my
7 actions, and whatever I could do to erase the despair, I am
8 willing. I will never take lightly my required financial
9 obligation to each impacted victim.

10 I understand that actions matter and not words, and
11 today I make the first payment towards my restitution in the
12 amount of \$800. My household budget is prepared to make
13 minimum payments of at least \$200 a month. Sir, I will labor
14 to repay. I will break my back, and I will work harder than
15 I ever have to make each victim whole.

16 I pray God's blessings on each and every one that
17 was impacted directly or indirectly. I apologize for my
18 actions, and at this moment I submit to the authority that
19 governs my life forever more. Thank you.

20 THE COURT: Well, one of the victim impact
21 statements that was submitted to the Court as part of the
22 presentence investigation report states, in part, as follows:
23 J.C. was forced into early retirement due to multiple
24 sclerosis which left J.C. blind. J.C. specifically purchased
25 the property in Maryland because it was a single-family home,

1 and J.C.'s mobility had been affected by the multiple
2 sclerosis. J.C. is currently in the property -- that was at
3 the time this was written. I don't know if it is still
4 true -- but the property is in foreclosure status. J.C.
5 cannot put into words how devastating this has been. J.C.
6 indicated how difficult it will be to obtain a new residence
7 due to failing health.

8 J.C. indicated the defendant has not apologized for
9 her actions, and her deeds speak about her character. J.C.
10 indicated that at the age of 58 and in failing health, J.C.
11 will never recover from this incident. The apology would
12 have been more persuasive had it been made to the victim
13 before today. The Court hears a lot of apologies and
14 promises on the date of sentencing.

15 As far as making restitution is concerned, the
16 victims who lost their homes lost \$633,000 in equity, and
17 their total losses exceeded \$800,000. At the rate of \$200
18 per month, let's see, that would be 4,000 months to pay
19 \$800,000. As far as restitution is concerned, I hope that
20 you will be successful, but it will never be completed at
21 that rate.

22 It's unfortunate, as the Court said before, that a
23 person with the obvious intelligence and articulate way of
24 speaking that you have could have been very successful in any
25 number of honest pursuits, and the fact that you chose to

1 proceed illegally and inflict so much damage on so many other
2 people, which can never be repaired, is unfortunate. But
3 it's not unusual in this type of case because the people who
4 have the intelligence and ability to commit this sort of
5 offense are most always able to earn an honest living without
6 having to resort to this.

7 But somehow they are overtaken by greed, and I hope
8 the lesson that your friends and your family and your
9 children can learn from this is that here is a very capable
10 person who was consumed by greed and so seriously damaged her
11 life and the life of her children, in particular, and her
12 family in general.

13 I've read these submissions, and a lot of which were
14 from young children who are still in school, stating that you
15 had been a good influence on them. And I hope that the young
16 people in particular can learn from this, that there is no
17 need to resort to this sort of conduct to further themselves.

18 You could have done very well just working at the
19 regular jobs that you had worked with before and after this
20 incident without ever becoming involved in it. But you did.
21 And the Court has to punish you in accordance with what you
22 did. The Court can never make a determination that a person
23 is a good person or a bad person. I'm sure you've done a lot
24 of good things. You've got all kinds of letters and all
25 kinds of friends here to support you stating all the good

1 things you've done, and I'm sure you've done a lot of goods
2 things.

3 But when you commit an offense like this which
4 causes so much harm to so many other people, the Court has to
5 punish you in accordance with what you did. It has nothing
6 to do with what kind of person you are. The Court really
7 doesn't know what kind of person you are. There is no way I
8 can know that based on -- even though I have a complete
9 report on you and all these letters, I can never know that.
10 I have to punish you for what you did. And what you did
11 deserves very severe punishment.

12 Pursuant to the Sentencing Reform Act of 1984, it is
13 the judgment of the Court that the defendant, Shanita R.
14 Lacy, is hereby committed to the custody of the United States
15 Bureau of Prisons to be imprisoned for a term of 48 months.
16 Because of the defendant's family obligations, the Court will
17 order that the defendant remain free on bond under the same
18 conditions until 2 p.m. on June 3rd, 2011, at which time she
19 shall report to the United States Marshal's office in this
20 courthouse or to such other institution as she may have been
21 designated prior to that date.

22 Upon release from imprisonment, the defendant shall
23 be placed on supervised release for a term of five years.
24 Within 72 hours of her release from custody from the Bureau
25 of Prisons, the defendant shall report in person to the

1 probation officer in the district --

2 THE COURT: Marshal, don't let anyone else leave the
3 courtroom during the Court's pronouncing sentence -- shall
4 report in person to the probation officer in the district to
5 which the defendant is released.

6 During her period of supervised release, the
7 defendant shall refrain from the unlawful use of any
8 controlled substance and submit to one drug test within 15
9 days of her release onto supervised release and at least two
10 periodic drug tests thereafter as directed by the probation
11 officer.

12 The defendant shall not incur any new credit charges
13 or open additional lines of credit without the approval of
14 the probation officer. The defendant shall provide the
15 probation officer access to any requested financial
16 information.

17 The defendant shall participate in a program
18 approved by the United States Probation Office for financial
19 counseling. The cost of this program is to be paid by the
20 defendant as directed by the probation officer.

21 The defendant shall apply all monies received from
22 income tax refunds, inheritances, judgments, and any
23 anticipated or unexpected financial gains to the outstanding
24 court-appointed financial obligation.

25 The defendant is prohibited from being

1 self-employed. She is further prohibited from engaging in
2 any aspect of the real estate, mortgage or insurance industry
3 during her period of supervised release.

4 The defendant shall not be employed in any capacity
5 where she has access to personal and financial information of
6 others. Considering the losses sustained by the victims and
7 the defendant's negative net worth and the restitution
8 obligation of the defendant, the Court finds that the
9 defendant does not have the ability to pay the minimum fine
10 or the cost of her imprisonment or the other cost of her
11 supervised release.

12 The defendant shall be required to pay restitution
13 in the amount of \$883,002.47. The defendant has stated that
14 she thought she could pay \$200 per month, and the Court will
15 accept that. It's difficult for somebody to, with her
16 obligations, to pay a good deal more than that, and even
17 though it will take a long time, if ever, to repay the
18 restitution at that rate, there is no reason for the Court to
19 set restitution at a figure which is not achievable.

20 So those payments will begin 60 days after her
21 release from confinement. I'll ask counsel and the defendant
22 to initial Paragraphs 4 and 7 where the Court has made the
23 additions to the proposed restitution order.

24 MR. CEJAS: Your Honor, will the Court include in
25 its judgment a recommendation to the Bureau of Prisons that

1 she be permitted to serve her confinement at an institution
2 as close to her home as possible?

3 THE COURT: Yes.

4 MR. CEJAS: Thank you.

5 THE COURT: The unfortunate -- one of the most
6 unfortunate parts of any sentencing situation such as that
7 faced by the defendant is that her children are punished by
8 her misdeed, and the Court does that for the benefit of her
9 children.

10 So the Court will recommend that she be confined to
11 an institution as close as possible to the residence of her
12 children, and I know that that is going to be a difficult
13 issue. I think they want to stay in Virginia, if they
14 possibly can. I'll ask the clerk to mark the restitution
15 order filed.

16 We also have a consent order of forfeiture which
17 orders that any money traceable to her misconduct up to
18 \$1,547,172 be forfeited to the United States. And this order
19 has been signed by the defendant as well as counsel. Does
20 your client understand that this order is also going into
21 effect, Mr. Cejas?

22 MR. CEJAS: Yes, sir.

23 THE COURT: All right. Well, the Court will also
24 enter this order effective today. I'll ask the clerk to mark
25 this order filed. So the Court is ordering that the fine and

1 the cost of imprisonment and the other cost of supervised
2 release be waived other than that which the Court ordered her
3 to pay in connection with financial counseling.

4 However, the defendant shall also be required to pay
5 a special assessment in the sum of \$100, which is due and
6 payable immediately, and if not paid prior to her
7 surrendering to the U.S. Marshal, then it will be deducted in
8 installments from her prison account in accordance with the
9 rules and regulations applicable to such accounts.

10 All monies payable to the victims shall be divided
11 pro rata among the victims and distributed to them by the
12 agency collecting the payments.

13 All right. This was a one count criminal
14 indictment, and the defendant waived the right to appeal her
15 sentence in the plea agreement, Mr. Cejas. If she indicates
16 to you that she has the desire to appeal her sentence,
17 notwithstanding the provisions of the plea agreement, then
18 you should file a notice to protect her timeliness of her
19 efforts to appeal, and if she is unable to afford an
20 attorney, then an attorney will be appointed for her for that
21 purpose.

22 MR. CEJAS: Yes, sir.

23 THE COURT: It will be necessary that you meet with
24 your probation officer prior to departing the courthouse
25 today because you are remaining under bond until you are

1 ordered to surrender to the United States Marshal, which the
2 Court is doing, as I said, for the benefit of your children.
3 And if you fail to appear at that time, I'm relying on the
4 fact that you will appear because you've obeyed the
5 conditions of your bond up until now and you have connections
6 to the community.

7 So that's why the Court is granting this, so that
8 you can attempt to make arrangements for your children. But
9 if you fail to appear, not only is that a violation of the
10 terms of your bond, but it's a separate offense against the
11 United States. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Mr. Cejas, you may have a
14 seat with your client.

15 (Hearing adjourned at 3:40 p.m.)

16 CERTIFICATION

17
18 I certify that the foregoing is a correct transcript
19 from the record of proceedings in the above-entitled matter.
20

21
22 X_____ /s/ _____ x

23 Jody A. Stewart

24 X_____ 6/15/201_____ x

25 Date

JODY A. STEWART, Official Court Reporter